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RECENT KARAITE PUBLICATIONS

Des Samuel al-Magribi Abhandlung über die Pflichten der Priester und Richter bei den Karäern. Nach einer Berliner Handschrift herausgegeben, übersetzt und mit Anmerkungen versehen von Dr. JULIUS COHN. Berlin 1907. pp. 72 + 23 (text), 8°.

Die Incestgesetze bei den Karäern von Samuel al-Magribi. Nach einer Berliner Handschrift von Dr. D. WEISS. Berlin 1911. pp. 54 + 17 (text), 8°.

SPECIMENS of Samuel al-Magribi's code *al-Murshid* (written in Arabic) so far as they have been published, have been reviewed by me in the first series of this REVIEW (see XVI, 405; XVII, 594; XVIII, 560; XX, 631). For the benefit of the readers of the new series I wish to state briefly that Samuel was a physician in Cairo, where he composed his work in the year 1434; that he was the last Karaite author of a complete code in Arabic; that this book, though primarily a compilation, is distinguished by its clear and lucid arrangement of material; moreover, elements from long forgotten Karaite writings having been preserved therein, its publication is very desirable. The *Murshid* is divided into twelve sections, and of these the second, third, and seventh have been published completely, while of the fourth and sixth only portions have appeared. These have been published as dissertations for the doctorate, based on the Berlin MS. 201 alone (written in 1435, hence one year after its completion), and partly with, partly without, a German translation. Since the appearance of my last review, two new specimens have been published, one of which, named first in the heading, contains a complete section, while the second constitutes only a part of a section; these likewise are dissertations (although this is not stated on the title-pages) and follow only the above mentioned Berlin MS. Both, however, are accompanied by a German translation.

I. The specimen published by Cohn bears the title: אלמקאלה "Section XI, concerning the obligations of some of the worthies of the nation"; more precise is the Hebrew postscript (which perhaps does not come from the author himself): נשלם הדבור במה שיתחייבו: בו הכהנים והשופטים, hence about the duties of the priests and judges. This section is thus of special value, since to my knowledge Samuel is the only known Karaite author who devotes to this theme a special section in his code. Of his predecessors I find only in Levi b. Jepheth's manuscript ספר המצות (composed 1007) a large chapter on the duties of the priests (הדבור באשר יתחייב (על הכהנים), but not on judges; and of his successors it is again only Elijah Bashyatchi who in his אדרת אליהו (composed 1490) devotes to the priests the last (ninth) chapter of the section on prayer (ענין תפלה). The rules concerning the priests are grouped by Samuel with reference to Lev. 21 and those regarding the judges with reference to Deut. 16, 18-20. He emphasizes twice that for the sake of completeness he treats also of such subjects as for the present אהל אלגלות, corresponding to the talmudic אהל אדרולא; the opposite to it is אהל אלגלות; שלא בפני הבית; comp. also *JQR.*, XVII, 590) bear no practical application, for instance the ordinances for the high-priest (p. 10, l. 18: אעלם אן מא דכר פי הדא אלפעל ממא יתעלק בבחן גדול לים הו: 18: מן תבאליף אהל אלגלות לאן לים פיהם מן הו בהדה אלצכא אלא אנני אדכר אחכאמהא ליכון אלכלאם פי אלכהנים תאם; similarly p. 10, l. 6; comp., on the other hand, p. 10, l. 8).¹

Here, as everywhere else, Samuel figures as compiler, even where the editor was led to believe that he dealt with original views and opinions. This is seen particularly in the interpretation

¹ Similarly also Levi in the chapter on the duties of priests (I use a modern manuscript in the possession of the synagogue library here): ... ודע כי דברנו על זה הענין כי יש בו דברים חייבים על אנשי הגלות וענין הכהן הגדול מאחיו אינו ממצות הגלות ואולם נראה להשלים הדבור במצות כהנים עד שלא ינתק הדבור ויראה הפרק בין כהן גדול וזולתו. The sixth section of the *Murshid*, which has reference to Ex. 21 and hence is mostly also of a theoretical character, contains no such remarks.

of בתולה מעמיו, that the high-priest must marry only a priestly maiden (p. 12, l. 8 from below, comp. n. III). This is found already in Levi b. Jepheth (. . . מעמיו 'אמ' ומקצת החכמים אמרו כי אמ' מעמיו), in Aaron b. Joseph's *Mibhar*, *ad loc.*, and in Aaron b. Elijah's *Keter Torah*, *ad loc.* (here: ונאמר בעמיו), and is also, by the way, Philo's opinion (see Geiger's conclusions in קבוצת מאמרים, my edition, p. 134). From Samuel himself proceeds perhaps only the interesting remark that Jehoiada was apparently opposed to that ordinance, having married the king's daughter Jehosheba. But in reality Jehoiada was not high-priest, no such person ראשו שמן המשחה, and אשר הוצק על ראשו שמן המשחה, and כהן גדול in II Kings 12, 11 means a powerful and influential priest, a position which he obtained as brother-in-law of the ruling monarch. As proof for the latter view may serve the fact that he is not mentioned in the list of high-priests I Chron. 5, 37-40. Interesting are also the habits of his contemporaries (אהל עצרנא) which he mentions, thus p. 4, l. 18, concerning the cutting of the hair of the chin with scissors among priests, and p. 7, l. 8, regarding the alliance with a widow. Of predecessors only Abu—l-Sari, i. e. Sahl b. Maṣliḥ, is cited by name, and with him his ספר דינים, which is quoted nowhere else (p. 1, l. 15). Sahl accuses here the rabbis of having burned the genealogical documents (יחושים). Something similar is found in Sappir's אבן ספיר I, 100b. The rabbis (אלרכאנין) are quoted twice besides (p. 9, l. 7, and p. 13, l. 9), but without any animosity. Halakic agreements with, or deviations, from the Talmud are pointed out sufficiently in the notes of the editor (comp. among others n. 67, where read § 10; n. 68, r. 78a). The references, on the other hand, to sources and parallels in the Karaite literature are not exhaustive. Thus the first reason why the mother is mentioned before the father in Lev. 21, 2 (p. 2, l. 21) is found not only in Levi b. Jepheth but also in the *Mibhar* and *Keter Torah*, *ad loc.*²

² The second reason adduced there (l. 23 ff.), that the wife must be buried first, corresponds to a rabbinic precept (see Ebel Rabbati 11, whence Yoreh Deah, § 354). The editor misunderstood the passage, translating סתרתה by "protection."

That a college of the elders must consist of ten, with reference to Ruth 4, 2 (p. 23, l. 12), is already mentioned by Anan (ed. Harkavy, p. 111) and Benjamin al-Nahawendi (**משאח בנימן**, *fol. 1a*, l. 37; comp. my remark *REJ.*, XLV, 69, l. 1), etc. From the last named work some parallels would still have to be drawn, thus that the law makes it incumbent to appoint judges everywhere even in the present (p. 16-17, Nahawendi, *fol. 1a* below; the conclusions of our author are particularly interesting here), that following Deut. 17, 9 learned people are to be consulted even nowadays in cases of doubt (p. 21, l. 13, Nahawendi, *fol. 1* above), etc., etc.

The following remarks concern details: p. 6, concerning the **מקדמאת** see *REJ.*, LI, 155; the *Kitāb al-'Ibbūr* is not a special treatise by Samuel, but rather forms the third section of his code, see *JQR.*, VIII, 563; on the other hand he was the author of very many piyyuṭim (see MS. Br. Mus., Cat. Marg., II, No. 728, and perhaps also 730, I²⁸).—P. 64, n. 3, Sahl was not a contemporary of Saadya, but lived after him, see my *Karaite Literary Opponents of Saadya Gaon*, p. 31.—*Ib.*, n. 4, the allusion is to the **נשיאים** who claim to be descendants from David, see for instance the lists by Mordecai b. Nisan, ed. Vienna, *fol. 4b*, by Pinsker, p. 53, etc.—P. 67, n. 52, concerning the binding force of the laws of purity among Karaites in exile see in addition *REJ.*, XLV, 195.—P. 68, read "Bashyatchi" instead of "Beshizi" and "Hadassi" for "ha-Dassy."—P. 70, n. 103, on **תנאיי** see *ZfhB.*, III, 93 (where our author is to be added).

The text is published with reasonable accuracy, and the translation is faithful as far as I have examined it, only here and there a more pointed expression could have been employed.

II. While the eleventh section published by Cohn is one of the most interesting of the *Murshid*, the ninth published by Weiss, which has incest for its subject (**אלעררוות פי אלמקאלה**; the last word cannot be transliterated into Arabic, as the editor does it on the title-page), deals with one of the most difficult chapters of Karaite jurisprudence. This circumstance is emphasized by Samuel himself (p. 1, l. 2: **אעלם אן אלכלאם פי אלעררוות** p. 3, l. 2: **לשן לים ענרנא פי אלפראיין גמיעהא אנלק** p. 3, l. 2: **צעב גרדא** p. 3, l. 2: **מנה ולא אצעב**). The Karaite precepts regarding the prohibited

degrees of relationship, despite the mitigations obtained in the process of time through necessity, are still very rigorous and render life burdensome.³ Unfortunately the editor offers us only ten chapters (the entire section contains twenty-three chapters) which besides some introductory remarks (chapt. 1-2) discuss the prohibitions of Lev. 18, 7-14, and this is to be regretted the more since the later chapters contain no doubt, as is the case for instance in Bashyatchi's *Adderet*, the principles of the Karaite marital law summed up in Samuel's laconic but lucid style.⁴ In the first chapter, which Pinsker published long ago (p. 146-148) in the Arabic original with a Hebrew translation, Samuel enumerates the most important teachers of the law who were opposed to the so-called רכוב-theory (according to which man and woman are a unit with regard to the prohibited degrees of relationship). The first among them was, as is well known, Abu Yaḳūb (Joseph) al-Baṣīr, then his pupil Abulfarag Furḳān b. 'Asad (i. e. Jeshua b. Judah), Abulfadl (i. e. Solomon ha-Nasi), Aaron b. Elijah, Israel ha-Dayyan (or ha-Ma'arabi), and his pupil Jepheth [b. Ṣagīr]. Samuel maintains that he relies chiefly on the last two. It goes without saying that also Samuel is an opponent of this theory, as he explicitly states

³ At a Karaite synod held in November 1910 at Eupatoria it was decided by a majority of 24 against 7 to allow the marriage between two brothers and two sisters or between a brother and a sister on the one hand and a sister and a brother on the other (the Karaites term it שני שארים על שני שני and derive the prohibition from Lev. 18, 11), despite the fact that letters to the contrary arrived from Ḥakams of Troki and Constantinople and from the representatives of the community of Cairo. This resolution has also called forth protests. The Karaite Ḥazzan in Theodosia, Babayeff, who had contracted such a marriage before the resolution of the synod, was deprived of his position. See the *Karaimskaya Zhizn* ("Karaite Life"), (a Russian-Karaite monthly appearing in Moscow since June 1911), vol. I (June), p. 84. 113; vol. II (July), p. 94.

⁴ Samuel himself emphasizes here the compact character of his statement (p. 2, l. 3 from below): לאן מוציע הוּא אֶלְכֶתֶאֱבֵד דְּכֵר מֵא לֹא בֵר מִנָּה: לא גִּיר לֹאֲנִתְפֹּאֵעַ אֶלְמִבְתְּרִיין בְּדֹלֶךְ אֵן שֶׁא אֱלֹהֵי תַע. This, however, agrees with the character of his work in general.

(p. 17 below, which escaped the notice of the editor, see his introduction p. 7).

The rabbis are mentioned only once (p. 1, l. 4) and designated as אֱלִמְכָאֲלָפִין ("heretics," not "quarrel-pickers" as Weiss translates). It is noteworthy that in another passage (p. 12, l. 18) an opinion of the "heretics" is quoted which does not come from the rabbis but from Karaites. The point involved is the prohibition of a step-sister derived from Lev. 18, 11: according to some Karaites, a step-sister is prohibited only when her mother bore a child to the father of the step-brother. The view is opposed by Samuel as heretical (אִי מִן) וכִּדְלֹךְ לֹא פֶרַק אֵן כִּאֵן אֱלֵאב רֶחַק מִנְהָא [אִי מִן] אִמְהָא [אִמְהָא] וְלֹד אוֹ לֹם יִרְחַק לֹאֵן אֱלִמְכָאֲלָפִין רְדוּ מוֹלֶדֶת אֵלִי אִמְהָא . . . and yet its originator is no less a person than Anan. His words on that point were known heretofore from Puki's שְׁעַר יְהוּדָה (Constantinople 1882, fol. 33; quoted by Harkavy, *Stud. n. Mitt.*, VIII, 100) and are now before us in the original of the סֵפֶר הַמִּצְוֹת (in Schechter's *Documents of Jewish Sectaries*, II, 20). The editor, however, made as little use of these two publications of Anan as of the two very important Karaite monographs on incest, which of all similar works are the only ones published, namely Puki's work which indeed is very rare,⁵ and the extremely important סֵפֶר הַיִּשָּׁר by Jeshua b. Judah (ed. Markon, St. Petersburg 1908). The latter, to be sure, is mentioned but not utilized, so that the only passage quoted from it by our author (p. 16, l. 7; וְאִנְעֵפָה and אִלְסוּאֵל *ib.*, l. 12-13, are translated incorrectly) is not pointed out by the editor.

The parallels from Hadassi (which also here assumes the form "ha-Dassy"), Aaron b. Elijah, and Bashyatchi (written "Beshizi" also here) are recorded in the notes in a diligent and satisfactory

⁵ The chief aim of this work is to combat the prohibitions against marriage resulting from the practice of the principle of "ascending" (צִעִידָה). According to this principle the prohibitions which are binding on married men through their relationship involve also their wives in all consequences, and *vice versa* (the latter is acknowledged only by Jeshua, but not by al-Baṣīr), and this often formed a back-door through which the רִכּוּב-theory crept in again.

way, but against this the older Karaite literature is a *terra incognita* to the editor, and herein he follows Fürst thoroughly, even to the point of imitating all his orthographic monstrosities; see for instance the list of the authors of alleged Karaite codes in the beginning of the introduction, among whom are found also Malich of Harmli (*sic!* this is the founder of sects, Malik הרמלי i. e. of Ramla), and Judah b. Koreish; similarly al-Baṣīr (n. 13) still figures as a contemporary of Saadya, etc.—The translation reads well, but is not altogether exact. Thus some inaccuracies have already been pointed out, and this is not the place to mention others. Only why does the editor so often leave untranslated the Bible verses which he quotes?

With regard to the notes the following is to be observed: n. 13 correctly אבו.—n. 16 the words בן פרקאן are to be deleted.—n. 58 probably ממה is to be read for מא.—n. 73 regarding the prohibition of the niece comp. now Shechter, *Documents*, I, p. XXXVII and the sources cited there.—n. 74 פונה is not "certainty" but a frequent expression for "doubt" among Karaite authors (see Pinsker, p. מר; Hadassi, for example, uses it also as verb: כי בקורת לתולדות, התפונג שאול, for Saul doubted; see Gottlober, אלאולאר ואולאר אולאדהם.—n. 106 read: מן דינה, the text is correct here.—n. 144 correct also here: "from his law."

Despite the foregoing strictures acknowledgement is due both editors for their editions, and it to be hoped the unpublished parts may soon become accessible to scholars.

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